

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

Armando Lisasuain

v.

Civil No. 12-cv-224-PB

Justin Goulding

REPORT AND RECOMMENDATION

Before the court are Armando Lisasuain's motions (doc. nos. 30 and 31) seeking a hearing and an order directing the Hillsborough County Department of Corrections ("HCDC") to provide him with additional postage, additional out-of-cell time, and new pens. Defendant objects (doc. no. 34). Lisasuain has replied to the defendant's objection (doc. no. 36).

As the defendant points out, Lisasuain's complaints concern treatment he allegedly received at the HCDC. Several weeks after filing these motions, Lisasuain was sentenced and transferred to the New Hampshire State Prison ("NHSP") where he is currently incarcerated. Lisasuain's access to legal materials, pens, and postage, therefore, is now subject to NHSP policy. The transfer has mooted Lisasuain's requests for injunctive relief as to the HCDC.¹ See Kuperman v. Wrenn, 645 F.3d 69, 73 (1st Cir. 2011) (prisoner's release mooted request

¹In Lisasuain's reply (doc. no. 36) to the defendant's objection, he argues, correctly, that his underlying action against the defendant survives his transfer to the NHSP.

for injunctive relief). Because Lisasuain has neither shown any likelihood that he may be transferred back to HCDC, nor that the NHSP imposes the same restrictions upon him, his requests for injunctive relief do not fit within any exception to the mootness doctrine, including the exception for injuries capable of repetition, yet evading review. See generally Alvarez v. Smith, 558 U.S. 87, 93 (2009).

Conclusion

The court recommends that Lisasuain's motions (doc. nos. 30 and 31) be denied as moot. Any objections to this report and recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). Failure to file objections within the specified time waives the right to appeal the district court's order. See United States v. De Jesús-Viera, 655 F.3d 52, 57 (1st Cir. 2011), cert. denied, 132 S. Ct. 1045 (2012); Sch. Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (only issues fairly raised by objections to magistrate judge's report are subject to review by district court; issues not preserved by such objection are precluded on appeal).



Landya McCafferty
United States Magistrate Judge

May 8, 2013

cc: Armando Lisasuain, pro se
John Curran, Esq.

LBM:jba